

## **§ 327.5**

(i) Date the seaman signed a reemployment register as a merchant mariner;

(ii) Copy of the medical fit-for-duty certificate issued to the seaman;

(iii) Date and details of next employment as a seaman; and

(iv) Date and details of next employment as other than a seaman.

(6) If the claim is for other than personal injury, illness or death, the claim shall provide all supporting information concerning the nature and dollar amount of the loss.

### **§ 327.5 Filing claims.**

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be filed either by personal delivery or by registered mail.

(b) The claimant shall send the claim directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590. A copy of each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose.

### **§ 327.6 Notice of allowance or disallowance.**

MarAd shall give prompt notice in writing of the allowance or disallowance of each claim, in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall contain a brief statement of the reason for such disallowance.

### **§ 327.7 Administrative disallowance presumption.**

If MarAd fails to give written notice of allowance or disallowance of a claim in accordance with § 327.6 within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5, such claim shall be presumed to have been "administratively disallowed," within the meaning in section 1(a) of 50 U.S.C. App. 1291(a).

## **46 CFR Ch. II (10–1–14 Edition)**

### **§ 327.8 Court action.**

(a) No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. App. 1291(a), their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§ 327.4 and 327.5 and shall have been administratively disallowed in accordance with § 327.6 or 327.7.

(b) This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as "seamen") employed on vessels through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor organization.

## **Subpart B—Admiralty Extension Act Claims; Administrative Action and Litigation**

### **§ 327.20 Admiralty Jurisdiction Extension Claims: Required claims.**

(a) Pursuant to 46 U.S.C. 30101(c) of the Admiralty Extension Act (AEA), administrative claims involving the extension of admiralty jurisdiction to cases of damage or injury on land caused by a Maritime Administration vessel on navigable waters must be presented in writing to the Maritime Administration in accordance with §§ 327.20 through 327.34 prior to institution of a court action thereon.

(b) A civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters may not be brought until the earlier occurrence of either the denial of the claim by the Maritime Administration or the presumptive denial of the claim which arises 6 months after the claim has been presented in writing to the Maritime Administration. 46 U.S.C. 30101(c)(2). Note that the 6 month period of review will not begin until a valid claim is filed pursuant to § 327.25.

(c) Proceedings against the United States pursuant to the requirements of

## Maritime Administration, DOT

## § 327.23

the AEA and these regulations is the exclusive remedy available against the United States of America, acting by and through the Maritime Administration, with respect to such injuries and damages.

### § 327.21 Definitions.

The following definitions apply to this subpart:

(a) *Accrual date.* The day on which the alleged wrongful act or omission results in injury or damage for which a claim is made.

(b) *Claim.* A written notification of an incident, signed by the claimant, describing the incident and explaining why the United States is liable. The claim shall be accompanied by a demand for the payment of a sum certain of money, with a statement as to how that sum certain was calculated and all documents supporting the amount claimed. Where damages for medical injuries are made, the doctor's statement relating the injuries to the accident should be attached as well as medical release forms for each treating physician, hospital, and medical care provider.

### § 327.22 Who may present claims.

(a) *General rules.* (1) A claim for property loss or damage may be presented by anyone having an interest in the property, including an insurer or other subrogee.

(2) A claim for personal injury may be presented by the person injured.

(3) A claim based on death may be presented by the executor or administrator of the decedent's estate, or any other person legally entitled to assert such a claim under local law. The claimant's status must be stated in the claim.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses.

(b) A joint claim must be presented in the names of and signed by, the joint claimants, and the settlement will be made payable to the joint claimants.

(c) A claim may be presented by a duly authorized agent, legal representative or survivor, if it is presented in the name of the claimant. If the claim

is not signed by the claimant, the agent, legal representative, or survivor shall indicate their title or legal capacity and provide evidence of their authority to present the claim.

(d) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they must be combined in one claim.

### § 327.23 Insurance and other subrogated claims.

(a) The claims of an insured (subrogor) and an insurer (subrogee) for damages arising out of the same incident constitute a single claim.

(b) An insured (subrogor) and an insurer (subrogee) may file a claim jointly or separately. If the insurer has fully reimbursed the insured, payment will only be made to the insurer. If separate claims are filed, the settlement will be made payable to each claimant to the extent of that claimant's undisputed interest. If joint claims are filed, the settlement will be sent to the insurer.

(c) Each claimant shall include with a claim, a written disclosure concerning insurance coverage including:

(1) The names and addresses of all insurers;

(2) The kind and amount of insurance;

(3) The policy number;

(4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(d) Each subrogee shall substantiate an interest or right to file a claim by appropriate documentary evidence and shall support the claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the United States or conclusive evidence of the amount of damages. The Maritime Administration makes an independent determination on the issues of fact and law based upon the evidence of record.